

following an Initial Attorney's Conference and the filing of a Certification of Initial Attorney's Conference, which occur after joinder of the issues. See LCvR 16.1(d). In this case, joinder of the issues has not yet occurred because the motions to dismiss (Document Nos. 21, 24, 27, 31) have not been resolved by the Court. The Local Rules make clear that "Court-enforceable discovery does not commence until issues have joined and a Scheduling Order has been entered," but "parties may engage in *consensual* discovery at any time." LCvR 16.1(f) (emphasis added). Thus, Plaintiff's motion is premature and should be denied without prejudice to Plaintiff bringing a renewed motion, if appropriate, after discovery has commenced.

Motion For Leave To Amend Summons (Document No. 56)

Plaintiff seeks leave to amend the date of some of his summons from July 19, 2022 to October 11, 2022, presumably to cure the timeliness issues raised by some of the motions to dismiss. Nonetheless, given that the undersigned respectfully recommends that the Amended Complaint *not* be dismissed for failure to timely serve some of the Defendants, the undersigned will respectfully order that this motion be denied as moot.

Motions To Take Judicial Notice (Document Nos. 57 and 64)

Plaintiff's "Memorandum In Support Of Motion To Take Judicial Notice Of Public Records" (Document No. 57) seeks, seemingly, to request that the Court take judicial notice of a variety of miscellaneous documents. Furthermore, Plaintiff's "Motion To Take Judicial Notice Of The July 24, 2019, (Verified) CCTV Video" (Document No. 64) requests that the Court take judicial notice of a video allegedly depicting the underlying events of Plaintiff's arrest. "Generally, when a defendant moves to dismiss a complaint under Rule 12(b)(6), courts are limited to considering the sufficiency of allegations set forth in the complaint and the 'documents attached or incorporated into the complaint.'" Zak v. Chelsea Therapeutics Intern., Ltd., 780 F. 3d 597,

606 (4th Cir. 2015). Here, the undersigned will respectfully decline to take judicial notice of Plaintiff's records, leaving consideration of such material to the Court's discretion at a later stage of the litigation. Thus, the undersigned will respectfully order that both of these motions to take judicial notice be denied without prejudice.

IT IS, THEREFORE, ORDERED that Plaintiff's "Motion To Compel Discovery" (Document No. 51) is **DENIED without prejudice**.

IT IS FURTHER ORDERED that Plaintiff's "Motion For Leave To Amend All July 19, 2022 Summons To October 11, 2022" (Document No. 56) is **DENIED as moot**.

IT IS FURTHER ORDERED that Plaintiff's "Memorandum In Support Of Motion To Take Judicial Notice Of Public Records" (Document No. 57) is **DENIED without prejudice**.

IT IS FURTHER ORDERED that Plaintiff's Motion To Take Judicial Notice Of The July 24, 2019, (Verified) CCTV Video" (Document No. 64) is **DENIED without prejudice**.

SO ORDERED.

Signed: January 8, 2024



David C. Keesler
United States Magistrate Judge

